

**MILLSTONE TOWNSHIP  
PLANNING BOARD  
MEETING MINUTES  
SEPTEMBER 14, 2016**

At 7:31p.m., Vice-Chairman Pepe called the meeting to Order.

The Secretary read the Adequate Notice.

Salute to the Flag.

Roll Call: Present: Beck, Grbelja, Kinsey, Pado, Pinney, Pepe and Ziner. Absent: Bailey, Kocur, Kurzman and Newman.

**APPROVAL OF MEETING MINUTES: August 10, 2016**

The Board having reviewed the Meeting Minutes, Committeewoman Grbelja made a Motion to approve the Minutes and Mr. Beck offered a Second. Roll Call Vote: Grbelja, Beck, Kinsey, Pinney, Ziner and Pepe voted yes to adopt.

**PUBLIC COMMENT PORTION: 15-Minute Limit**

Vice-Chairman Pepe opened the meeting to public comment at 7:34 p.m. Seeing no public comment, he closed the meeting at the same time.

**CARRIED APPLICATION:**

**P16-01 - VASHISHT, AVINASH** - Block 59, Lot 11 located at 508 Monmouth Road consisting of 2.24 acres in the Highway Commercial (HC) Zoning District. Applicant seeks Preliminary and Final Major Site Plan Approval to remove an existing gasoline station and construct a 14,443 s.f. mixed use retail building. Applicant seeks variance relief for an undersized lot where 3 acres is required applicant can provide 2.24 acres., front yard setback where 100 ft. is required, applicant can provide 96 ft., property depth where 450 ft is required, applicant can provide 284.50 ft., lot coverage where 50% is required applicant proposes 63%, building height where 30 ft. is maximum, applicant proposes 32.9 ft. Deemed Complete 7-25-16. Heard in part on 8-10-16; carried to 9-14-16 without the need for further noticing. Date of Action: 11-22-16.

Attorney Stuart Lieberman representing the applicant.

Attorney Steib announced that Mr. Ploskonka was previously sworn in at the August Meeting and is still under oath.

Mr. Ploskonka stated that the focus this evening is hearing the testimony of the Exxon LSRP who will advise where they are in the cleanup of the property.

Mr. Ploskonka clarified that the proposed building is 14,443 s.f. They do not have any proposed tenants at this time. He summarized that the architectural plans were provided and discussed at the last meeting. Mr. Ploskonka reported that they have reviewed both the Planner and Engineer's reports and they would comply with those reports. He stated that the Millstone Township Environmental Commission had reviewed the application and indicated in their report to the Board that they found no threatened and endangered species.

Attorney Steib reported that William O'Brien, LSRP for the applicant, has previously been sworn in and is under oath. Mr. O'Brien confirmed that he is an LSRP in the State of New Jersey. He has been an environmental consultant for the past 11-years. Mr. O'Brien stated that he has been doing this work throughout the United States and Canada. Mr. O'Brien has a license from the State of New Jersey to perform the cleanups.

Mr. O'Brien is currently working on two areas of concern to obtain a remedial outcome. One area of concern is a 1998 diesel spill. He has the final results and will finalize that document and close the file. He explained that closing the file means submitting the documents to the NJDEP that closes the issue. Mr. O'Brien states that he submits the report and signs off that the cleanup has been done. The NJDEP reviews his document submission before they approve it.

Mr. O'Brien will submit his report to the Board stating that the cleanup has been accomplished.

The second area of concern was a 2005 underground storage tank removal issue. Two soil samples exceeded the 2005 standards. Mr. O'Brien advised that the initial results are below the current standards for 2016. He anticipates writing a response outcome and that is presently pending.

The Board had no further questions concerning his testimony.

Attorney Steib swore in Richard Jasaitis. He is employed by Kleinfelder. He is a licensed site remediation expert. He ensures that the remediation conducted by the firm is done by the standards of the NJDEP. Mr. Jasaitis is the Senior Project Manager. His firm has 2500 employees coast to coast. He advised that he has been in the remediation business for 35 years in New Jersey since 1985. Mr. Jasaitis has been involved with this property for the past two and one-half (2 1/2) years and is completely familiar with this project.

The Board had no problem with Mr. Jasaitis' credentials.

Mr. Jasaitis explained the nature of the cleanup undertaken by Kleinfeld and provided an overview of the project started by Handex, whom he had worked for at the time. He advised that the tank field was removed and the soil was excavated.

Mr. Jasaitis advised that in early 1992, a groundwater pump treatment was installed and a soil vapor extraction system was installed. He explained that the soil vapor extraction system draws air out of the soils and vaporizes any gasoline that is treated by a treatment system. This system ran for twelve (12) years. Mr. Jasaitis reported that 27 million gallons of water was taken out of the ground, treated and discharged.

Mr. Jasaitis stated that the cause of the contamination originated from a leaking tank field, a tank or pipeline. Mr. Jasaitis explained that the concentrations declined so this did not have to continue. He explained why it was technically unfeasible to continue this way. He stated that eventually the concentrations being drawn in are so slight that it does not make any sense to continue. The treatment system is 15 to 35 or 40 feet deep. He explained that soil was tested below that level.

In July 2010, the systems were shut down because the concentration declined. The next remedial action was to allow natural attenuation to occur. This is the process of the natural breakdown of contaminants in the soil. Mr. Jasaitis advised that the projection when all components in the ground water will be gone is the year 2025. He stated that this is a very conservative model. They are close to meeting the critical standard now. The plume is stable and has been for decades.

Mr. Jasaitis stated that the next step is to close the site, submit to NJDEP the groundwater information. He will be sending this to the State of New Jersey within the next thirty (30) days.

Mr. Ziner asked Mr. Jasaitis if the seepage could have been fifty (50) feet or more. Mr. Jasaitis stated that they have deeper wells that have been tested behind the Compact Kars location and on Route 537 in the residential property and they are fine. He stated that for a number of years they are monitoring the wells. They continued to test the wells to 2014. He explained that for seven (7) years they have accumulated non-data so they suspended the continuation of testing.

Mr. Lieberman asked Mr. Jasaitis how much is likely left at site. Mr. Jasaitis advised how this would be calculated. In his 35 years of experience, he felt that one-half (1/2) gallon remains in the aquifer.

The Board asked what remains to be done. Mr. Jasaitis stated that a permit will be granted after a short period of review by the NJDEP. They are required to certify every two (2) years that their projections are moving in the right direction. They can check their work and may need to adjust the models and Mr. Jasaitis explained. They have seen steady declines on this site. Mr. Jasaitis went back and checked the records and found no contamination in the soil. He stated that there is some contamination in the monitoring wells servicing Compact Kars and he will continue to observe the monitoring wells.

Mr. Jasaitis stated that they project a twelve (12) year period of time for natural attenuation. He explained how some results could fluctuate and what could influence the numbers. Mr. Lieberman asked Mr. Jasaitis if this will have an adverse affect on the site. Mr. Jasaitis stated that it will have no affect. The site is partially paved presently. He explained that Kleinfelder is getting close to end the cleanup and presently have thirty-seven (37) monitoring wells on the site. He advised that they will be removing twenty-six (26) monitoring wells when they receive their groundwater permit. The wells will be located outside of the structure and come behind Compact Kars and outside of the parking area on the proposed site.

Mr. Jasaitis stated that this development will not hinder any monitoring they may have to perform and will not be detrimental to the proposed project.

The monitoring wells were discussed. Mr. Jasaitis stated that if there is a spike in benzene beyond normal expectation, he would recommend a substance be injected in the well that would neutralize the benzene. Mr. Jasaitis offered that technology has advanced in 1990s and this was not available. If there is a spike, it would be cost effective to treat the small area.

Ms. Pinney asked who performs soil removal from the site. Mr. Jasaitis advised that licensed truckers haul the soil away. The soil ends up as a cover in a landfill. Mr. Jasaitis did not foresee

any scenario where soil would have to be removed. Board Engineer Shafai stated that there is no stormwater recharge for this reason. They have a waiver that is permitted under the NJDEP.

A letter dated September 1, 2001 from the NJDEP to Richard Jasaitis of Kleinfelder was discussed. Mr. Jasaitis stated that the letter was in response to a submittal that Kleinfelder made to NJDEP to establish a CEA (classification exception area) under NJDEP rules when you have an area of groundwater that exceeds the standards. He explained that this is the method to accomplish that. Anyone in area of the situation on this property would be alerted by this method.

The State was inquiring what the highest concentration was within the last two (2) years. Mr. Jasaitis explained that these were the numbers three (3) years ago. Mr. Jasaitis explained that the numbers have reduced to below the standards in three (3) years. He stated that the declines that they are seeing are excellent. The numbers are ahead of what they had projected.

Ms. Pinney asked if someone wants to build a home would there be a real concern. Mr. Jasaitis responded no.

Mr. Jasaitis discussed the well restriction area. He stated that when they define where the impacted groundwater is they refer to it as this number horizontally then this number deep. Board Engineer Shafai stated that is what they have been telling the Monmouth County Board of Health.

Mr. Pado asked where the well would be located on the site. Engineer Shafai advised it would be located one-hundred (100) feet away from the septic field. Mr. Ploskonka, referring to the Site Plan, shows the location to the Board.

A better location of the water well was discussed. The wells must be tested to see if the water is potable.

Vice-Chairman opened the testimony of the witness to the public.

Doug Ivins of Monmouth Road thanked Mr. Jasaitis for his explanation. He questioned a letter that he had received dated 9-1-15

Attorney Steib entered into Evidence is Exhibit A-17 Letter from NJDEP to Exxon dated 9-1-15.

Committeewoman Grbelja reported that the Township utilizes the Monmouth County Board of Health for the approval of the water wells. She explained that before the Monmouth County Board of Health's involvement, wells were shallow.

The applicant explained that every two (2) years they apply for certification and are required to copy the Mayor and the Township Clerk keeping them information of the cleanup progress.

Seeing no further questions of the witness, Vice-Chairman Pepe proceed.

Attorney Steib swore in the applicant's Planner, James W. Higgins of Ocean Township, New Jersey. Mr. Higgins provided that he is a licensed planner in the State of New Jersey. Mr. Higgins is self-employed and has testified before several hundred Boards and has testified before both of

the Boards in Millstone, as well as testified in many County and State Courts. Mr. Higgins is accepted as an expert witness.

Mr. Higgins provided a brief overview of the property. The property is surrounded by the Highway Commercial Zone in both Millstone and across the street in Jackson. The applicant is seeking relief from five (5) variances. He explained that two (2) are pre-existing for lot area and lot depth. These are pre-existing and non-conforming. Mr. Higgins advised that three (3) variances are created by this application. He stated that two (2) variances are for lot front yard setback. There is a four (4) foot deviation from the ordinance. He explained that granting the variances allows for a better visual environment.

Mr. Higgins stated that the proposed building will conform visually. A variance is needed for the height of the proposed building which is 32.9 ft.. Mr. Higgins stated that you are unable to tell that the building is more than thirty (30) feet in height. He offered that the benefits outweigh the detriments for the Board to grant the variances. The lot coverage allows for 50% and the applicant proposed 64%. Mr. Higgins explained the benefits of granting the C2 variances. The site has been an eyesore and this project will eliminate that. There will be substantial landscaping around the perimeter which will significantly improve the site. Mr. Higgins feels this is a good transition and less intensive than what is built across the street in Jackson.

Mr. Higgins stated that there is an aspect of hardship in this application. The applicant is proposing to take away an eyesore with a history of problems and construct an attractive building. He offered that they are all positives here and no negatives.

Mr. Higgins stated that the C1 variance is due to a hardship. The pre-existing variances are C1 variances. He offered that the C2 variances have a benefit that substantially outweigh the detriments.

Mr. Ziner asked about the detention basin and rainwater collection. Board Engineer Shafai stated that there is a detention basin but there is no recharge area.

John Ploskonka referred to the Exhibit A-17 explained the basin location. He stated that the water is collected, retained and then slowly discharged into the system. He stated that the storm filter removes contaminants and is regulated by the NJDEP. Mr. Ploskonka advised that there are no flooding issues associated with the basin. He stated that the Monmouth County Engineering department will review this.

At 8:45 p.m., Vice-Chairman Pepe opened the testimony of Mr. Ploskonka to the audience.

Mr. Ivins is concerned about stormwater potentially flooding his property. Mr. Ploskonka explained how the water traverses on the property and gets into the detention basin, detaining water and releasing it at a slow rate. The basin is designed to hold and regulate.

Vice-Chairman Pepe voiced his concern regarding the dumpster location. Mr. Ploskonka stated that it will be located in an area so it will not be near the residence. The dumpster will be angled.

Tom Pado offered that improving the site is beneficial.

Committeewoman Grbelja stated that this has been ongoing since 1988. Due to the testimony from Exxon and having knowledge about the natural degradation, she feels it does not pose a problem. The monitoring wells at thirty (35) feet and wells at fifty (50) feet are no problem. Potable wells at one hundred-fifty (150) feet pose no problem. She stated that she does not like the impervious surface coverage but in an area such as this, she stated that when you are looking for natural degradation of fuel and natural breakdown, she would prefer not to have any water going back into the soil. Committeewoman Grbelja offered that the process is moving quickly and they are ahead of schedule. They have to show the NJDEP that there have been eight (8) consecutive times where they were testing and seeing a decline in the numbers. She stated that she is not particularly concerned because of the testimony and progress provided.

Committeewoman Grbelja would not want to see that site empty and left in the condition it is in. This is not a nice way to say welcome to Millstone. The proposed use will have services on site that will limit water usage. She stated that she had learned a lot from the Mr. Jasaitis. The Board's questions were comprehensive and on target and the Board's concerns were brought to the front. She commented that the Plan presented vastly improves the site and improves taking water off of the property.

Attorney Steib read the conditions of approval should the Board vote in that direction, including but not limited to, RAP compliance, compliance with the reports of the Board Engineer and Planner, periodic reports will be provided to the municipality, the Planner, the Engineer and the Township Administrator, remedial action order (RAO) for the two (2) spills that Mr. O'Brien oversaw, employees to park in the rear of the building, no restaurants shall be permitted, the dumpster will match the building materials, move the dumpster to the Compact Car side of the property, enhanced buffering, no cooking onsite, no food preparation onsite, light box lighting will be faced down to the neighbor to the west, the lighting shall be shielded so as not to spill, the approval is subject to Monmouth County Board of Health approving the septic system, etc.

Committeewoman Grbelja stated that due to the grease traps, cooking on site is prohibited.

Vice-Chairman Pepe asked for a Motion and a Second to either approve or deny the application. Committeewoman Grbelja made a Motion to approve the application as conditioned and Mayor Kinsey offered a Second. Roll Call Vote: Grbelja, Kinsey, Pado, Beck, Ziner and Pepe voted yes to approve the application. Ms. Pinney abstained.

#### **OLD BUSINESS:**

Attorney Steib provided a brief Mt. Laurel update advising that there was no need to enter into executive session to discuss the status.

Attorney Steib provided that the Gap obligation appeal went to the Appellate Division who decided that there was no Gap and no obligation.

The Builders and the Fair Share Housing group filed an appeal of the Appellate Division's decision to the Supreme Court.

The Supreme Court stayed the Appellate Division's decision.

The Gap is back and is an issue before the trial courts. The Monmouth County judges are waiting for the Supreme Court to decide. Ocean County is moving forward and the judge is including the Gap. This could constitute a precedent and impact the Township.

Mayor Kinsey advised that Mayors are trying to get this out of the courts and into the legislature. Bills S-2216 and S-2254 accentuate the plain language of the Mt. Laurel decision. He stated that we are not looking backwards, it is about our present needs. We are pursuing legislation and it is getting a lot of movement behind it. If legislation is successful, then this will take the Gap period out of the courts.

Seeing no further old or new business, Vice-Chairman Pepe asked for a Motion to Adjourn the meeting. Mayor Kinsey made the Motion, Vice-Chairman Pepe offered a Second and by unanimous vote the meeting adjourned at 9:25 p.m.

Respectfully submitted,

Pamela D'Andrea